Senate Bill No. 687

CHAPTER 153

An act to add Section 1111.5 to the Penal Code, relating to criminal procedure.

[Approved by Governor August 1, 2011. Filed with Secretary of State August 1, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 687, Leno. Criminal procedure: informants.

Existing law provides that a conviction cannot be had upon the testimony of an accomplice unless that testimony is corroborated by such other evidence which tends to connect the defendant with the commission of the offense and that corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

This bill would additionally provide that a judge or jury may not enter a judgment of conviction upon a criminal defendant, find a special circumstance true, or use a fact in aggravation based solely on the uncorroborated testimony of an in-custody informant, as defined. The bill would provide that corroboration shall not be deemed sufficient if it merely shows the commission of the offense, the special circumstance, or the circumstance in aggravation. The bill would provide that the corroboration of an in-custody informant shall not be provided by the testimony of another in-custody informant.

The people of the State of California do enact as follows:

SECTION 1. Section 1111.5 is added to the Penal Code, to read:

1111.5. (a) A jury or judge may not convict a defendant, find a special circumstance true, or use a fact in aggravation based on the uncorroborated testimony of an in-custody informant. The testimony of an in-custody informant shall be corroborated by other evidence that connects the defendant with the commission of the offense, the special circumstance, or the evidence offered in aggravation to which the in-custody informant testifies. Corroboration is not sufficient if it merely shows the commission of the offense or the special circumstance or the circumstance in aggravation. Corroboration of an in-custody informant shall not be provided by the testimony of another in-custody informant unless the party calling the in-custody informant as a witness establishes by a preponderance of the evidence that the in-custody informant has not communicated with another in-custody informant on the subject of the testimony.

(b) As used in this section, "in-custody informant" means a person, other than a codefendant, percipient witness, accomplice, or coconspirator, whose testimony is based on statements allegedly made by the defendant while both the defendant and the informant were held within a city or county jail, state penal institution, or correctional institution. Nothing in this section limits or changes the requirements for corroboration of accomplice testimony pursuant to Section 1111.

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